

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Fortino A. Luna,

Petitioner,

Case No.: 1:10-cv-284

v.

Judge Michael R. Barrett

Warden, London Correctional Institution,

Respondent.

ORDER

This matter is before the Court on the Report and Recommendation (“Report”) filed by Magistrate Judge Michael R. Merz on July 29, 2011 (Doc. 11). Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report in a timely manner.¹ See *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981). No objection to the Report has been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636, this Court finds the Report to be correct. Accordingly, it is **ORDERED** that the Report is hereby **ADOPTED**. As the Report recommends (Doc. 11, 7–8), it is **ORDERED** that that the Petition in this case be **DISMISSED with PREJUDICE**. Because reasonable jurists would not disagree with this conclusion, Petitioner is denied leave to appeal *in forma pauperis* and any requested certificate of appealability.

IT IS SO ORDERED.

¹ Notice was attached to the Report regarding objections. (Doc. 11, 8.)

s/Michael R. Barrett
United States District Judge